

Appendix E to Part 37-What Provisions May a Participant Need to Include when Purchasing Goods or Services Under a TIA?

A. As discussed in §37.705, you must inform recipients of any national policy requirements that flow down to their purchases of goods or services (e.g., supplies or equipment) under their TIAs. Note that purchases of goods or services differ from subawards, which are for substantive research program performance.

B. Appendix A to 32 CFR part 34 lists seven national policy requirements that commonly apply to firms' purchases under grants or cooperative agreements. Of those seven, two that apply to all recipients' purchases under TIAs are:

1. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). A contractor submitting a bid to the recipient for a contract award of \$100,000 or more must file a certification with the recipient that it has not and will not use Federal appropriations for certain lobbying purposes. The contractor also must disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. For further details, see 32 CFR part 28, the DoD's codification of the Governmentwide common rule implementing this amendment.
2. Debarment and suspension. Recipients may not make contract awards that exceed the simplified acquisition threshold (currently \$100,000) and certain other contract awards may not be made to parties listed on the General Services Administration (GSA) "List of Parties Excluded from Federal Procurement and Nonprocurement Programs. The GSA list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and parties declared ineligible under statutory or regulatory authority other than Executive Orders 12549 (3 CFR, 1986 Comp., p. 189) and 12689 (3 CFR, 1989 Comp., p. 235). For further details, see subparts A through E of 32 CFR part 25, which is the DoD's codification of the Governmentwide common rule implementing Executive Orders 12549 and 12689.

C. One other requirement applies only in cases where construction work is to be performed under the TIA with Federal funds or recipient funds counted toward required cost sharing:

1. Equal Employment Opportunity. Although construction work should happen rarely under a TIA, the agreements officer in that case should inform the recipient that Department of Labor regulations at 41 CFR 60-1.4(b) prescribe a clause that must be incorporated into construction awards and subawards. Further details are provided in Appendix B to Part 22 of the DoDGARs (32 CFR part 22), in section b. under the heading "Nondiscrimination."